

## **REMARKS**

Applicant appreciates the consideration of the response to the previous Office Action. The applicant has thoroughly studied the Office Action of August 19, 2009 and has submitted this amendment in response to that Office Action. Reconsideration of this application, as amended, is earnestly requested.

Claims 1, 112, and 119 are amended. Claim 84 is cancelled and claim 118 previously has been cancelled without prejudice, and claims 3, 5-45, 53-61, 63, 65-83, 87-90, 94-102, 104, 106-111, and 113-118 have been withdrawn from examination due to a restriction requirement. Claims 1, 2, 4, 46-52, 62, 64, 85-86, 91-93, 103, 105, 112, and 119 remain pending in the application with claims 1, 112, and 119 being the independent claims.

Claims 1, 112, and 119 stand rejected under 35 U.S.C. §102(b) as being anticipated by Adinolfi (US 5929355), Lauts (US D475555), and Battle (US 5063821). Claims 1-2, 4, 46-47, 112, and 119 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams (US 5,691,490) in view of Aitken (US 4,658,690), claims 48-52, 64, 84-86, 91-93, 103, and 105 as being unpatentable over Williams in view of Aitken and further in view of Tumura (US 5,585,588), and claims 84-86, 91-93, 103, and 105 as being unpatentable over Williams in view of Aitken and Tumura and further in view of Norton (US 5,994,633). These rejections are respectfully traversed.

### **102 Rejections**

Independent claims 1, 112, 119 are amended to include the limitations of dependent claim 84, now cancelled, "a plurality of small-scale musical modules wherein each small-scale musical module generates an electrical signal in response to user operation of the individual small-scale musical module; ... at least one hierarchical frame module secured within one of said plurality of mounting locations of said mounting frame; and ... wherein the at least one hierarchical frame module secures the plurality of small-scale musical modules in

a reconfigurable mounting arrangement, wherein each musical module of the plurality of small-scale musical modules is exchangeably mountable within any of a plurality of mounting locations of the at least one hierarchical frame module.” No new matter is added with these amendments.

The Examiner has cited Adinolfi, Lauts, and Battle in rejecting independent claims 1, 112, and 119. Adinolfi relates to an integrated support and wired rack system is provided for acoustic-electronic and or electronic percussion instruments in which tubular cross and upright support members form a free standing rack with each tubular section carrying bundled wires inside the support and input and output jacks and connectors mounted on the rack at strategic locations adjacent the drum placement mounts and having cross to upright jumper cables and connectors to allow for the height and width adjustments of the integrated rack system. Lauts shows an ornamental design for a dual keyboard stand. Battle relates to a percussion instrument employing a horizontal surface having transducers on its under side and spaced above the floor. Mounted at an elevation and position within easy reach of the percussionist are a number of tubular drums which the percussionist may strike with a drumstick.

None of Adinolfi, Lauts, and Battle teaches “a plurality of small-scale musical modules ... at least one hierarchical frame module ... wherein the at least one hierarchical frame module secures the plurality of small-scale musical modules in a reconfigurable mounting arrangement, wherein each musical module of the plurality of small-scale musical modules is exchangeably mountable within any of a plurality of mounting locations of the at least one hierarchical frame module.”

As set forth in MPEP 2131, to anticipate a claim, the reference must teach every element of the claim. Since, as discussed above, every element of independent claims 1, 112, and 119 is not taught by Adinolfi, Lauts, and Battle, applicant submits that these claims are not anticipated by Adinolfi, Lauts, and

Battle and are therefore patentable. Additionally, claims 2, 4, 46-52, 62, 64, 85-86, 91-93, 103, and 105 are patentable at least by virtue of dependence upon a patentable independent claim.

### **103 Rejections**

Independent claims 1, 112, 119 are amended to include the limitations of dependent claim 84, now cancelled, “a plurality of small-scale musical modules wherein each small-scale musical module generates an electrical signal in response to user operation of the individual small-scale musical module; ... at least one hierarchical frame module secured within one of said plurality of mounting locations of said mounting frame; and ... wherein the at least one hierarchical frame module secures the plurality of small-scale musical modules in a reconfigurable mounting arrangement, wherein each musical module of the plurality of small-scale musical modules is exchangeably mountable within any of a plurality of mounting locations of the at least one hierarchical frame module.” No new matter is added with these amendments.

The Examiner has cited Williams in view of Aitken and further in view of Tumura in rejecting dependent claim 84 as being unpatentable under 35 U.S.C. §103(a) specifically stating that “a mere variation in size is not a patentable feature.” However, none of the cited references teaches or reasonably suggests hierarchical frame module secured within one of the mounting locations of a mounting frame wherein small-scale musical modules are mounted in the hierarchical frame module.

Williams teaches a stringed musical instrument such as an electric or acoustic guitar and a bass guitar in combination with a piano-type keyboard wherein the keyboard is adjustably attached using a bracket for adjusting the keyboard relative to the stringed instrument. (Abstract). Williams does not teach or suggest that the stringed instrument has a hierarchical frame module (a frame within a frame) in which one or more musical modules of any size are located, but only that its single musical module (the keyboard) is adjustable. There is no

alternate location to install the keyboard nor is there any other module that may be installed in place of the keyboard. The keyboard is not "exchangably mountable" with any other module, and adjustability is not the same as exchangably mountable,

Aitken teaches a guitar-like musical instrument for use with a synthesizer in which the neck angle is adjustable with respect to the body. The Examiner cites Aitken for teaching the use of adjustable music modules ("Aitken discloses the use of music modules (22, 40, 50, 70) having a keyboard (70) and a readily positionable neck board (22; col. 23, lines 21 - 28). It would have been obvious to one of ordinary skill in the art to combine the teachings of Williams and Aitken to obtain an aggregated instrument wherein each of the modules is readily positionable with respect to a mounting frame.") (OA p.4). Just because Aitken's guitar neck and trigger strings (40) are rotatable with respect to the pitch strings (50) and keys (70) does not mean that the trigger strings are exchangeable with the keys or the pitch strings. Being positionable does not teach "exchangably mountable."

Tumura relates to a stringed instrument having a device that drives the strings to sustain the vibration of the string and an electromagnetic driver for the device. (Col. 1: 13-17). The Examiner has not indicated where or how Tumura teaches "exchangably mountable" music modules, and the applicant believes that Tumura fails to teach "exchangably mountable" music modules.

The Examiner also rejects claim 84 under 35 U.S.C. §103(a) as being unpatentable over Williams and Aitken and in view of Tumura and further in view of Norton, and relies upon Norton for teaching small-scale musical modules ("Tumura disclose a small-scale module (interpreted here as a "module within a module"). Norton discloses a control module (132) having plural and separate controls (134) within the control module (132). The Examiner is defining these controls (134) as "smallscale" modules within a module (132), i.e., a module within a module.') (OA, p.7.)

For the above reasons, Williams, Aitken, and Tumura do not teach “exchangably mountable” music modules. Norton relates to a stringed musical instrument, such as a guitar, mandolin, or a violin having an elongated frame to which modular components such as necks, electronic pick-ups, electronic control boxes, bridges, tail pieces, decorative components, or body parts can be adjustably placed and clamped.

The Examiner mischaracterizes the scope of claim 84 depending from independent claim 1. The applicant claims, in part, a mounting frame to which individual music modules and hierarchical frame modules can be attached. A hierarchical frame module further contains one or more small-scale musical modules. The Examiner equates Norton’s control module 132 with a music module, and then further equates the individual controls 134 on the music module 132 as small-scale music modules. The applicant respectfully disagrees with the Examiner’s characterization for the following reason.

An individual control 134 is not a small-scale music module. While Norton does not define an individual control in the specification, FIG. 11 shows control module 132 having switches and pushbuttons or knobs. A component such as a switch or a pushbutton is not a “small-scale musical modules wherein each small-scale musical module generates an electrical signal in response to user operation” but only an element of the control module 132. Norton does not indicate that these switches and pushbuttons are “exchangably mountable” with each other as required by claim 1 now amended with the limitations of claim 84. Normally such switches and pushbuttons are permanently mounted on a control module, and nothing in Norton indicates otherwise. Applicant contends that a switch or a pushbutton is not the equivalent of an “exchangably mountable” small-scale music module, and that an “exchangably mountable” small-scale music module is not taught by Norton.

Independent claims now recite limitations not taught by Williams, Aitkin, Tunura, and Norton, either individually or in combination.

As set forth in MPEP 2143, to show a *prima facie* case for obviousness, all the prior art references, either individually or combined, must teach all the claim limitations. None of Williams, Aitkin, Tunura, and Norton teaches a “plurality of small-scale musical modules [] exchangeably mountable within any of a plurality of mounting locations of the at least one hierarchical frame module.” Applicant submits that a *prima facie* case for obviousness has not been shown and that claims 1, 112 and 119 are patentable over the cited prior art. Additionally, claims 2, 4, 46-52, 62, 64, 85-86, 91-93, 103, and 105 are patentable as well by virtue of dependence upon a patentable independent claim.

### **CONCLUSION**

In view of the above amendments and remarks, applicant respectfully requests reconsideration and withdrawal of the rejections, and an early indication of the allowance of the claims. Applicant believes the claims are in condition for allowance and respectfully solicit favorable action.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If any points remain at issue that the Examiner feels may be best resolved through a telephone interview, the Examiner is kindly invited to contact the undersigned by telephone at (909) 621-2059 or by email at cwschmoyer@yahoo.com.

Respectfully submitted,

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